

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MARCH 27, 2012**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Cameron, Hutchison, Cunningham, Spain, Voigt

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

Chairman Conze called the meeting to order at 8:00 P.M. and read the first agenda item.

PUBLIC HEARING

Continuation of Public Hearing regarding Coastal Site Plan Review #270, Flood Damage Prevention Application #306, Land Filling & Regrading Application #270, Paul & Amy Darrah, 11 Peabody Lane (aka 66 Salem Straits). Proposing to: raze the existing residence and construct a replacement single-family residence with garage and pool; connect to the Town sewer system and abandon the existing septic system(s); raze the existing second residence and detached garage on the property; and perform related site development activities within regulated areas.
APPLICATION WITHDRAWN ON 3/20/2012.

Chairman Conze said that the application was withdrawn on March 20, 2012. Chairman Conze read the following agenda item:

Land Filling & Regrading Application #268, Jack Procaccini, 42 Wakemore Street (formerly known as 0 Wakemore Street). Proposing to: relocate a single-family residence from an adjacent parcel to the northwest of the subject property onto the subject property; add to that residence; add a garage and new driveway; and perform related site development activities.
PUBLIC HEARING POSTPONED

Chairman Conze said that the Public Hearing was postponed until late April or early May. Chairman Conze then read the following agenda item:

Business Site Plan #146-C/Special Permit, Anthony's Coal Fired Pizza, 319 Boston Post Road. Proposal to install additional parking with related landscaping and stormwater management; to install outdoor dining on a proposed terrace in front of the existing restaurant; and to perform related site development activities. The subject property is located on the north side of Boston Post Road, at the northeast corner formed by its intersection with Birch Road, and is shown on Assessor's Map #13 as Lots #1 and 2, in the SB-E and R-1/2 Zones. *PUBLIC HEARING POSTPONED.*

Chairman Conze said that the Public Hearing was postponed, and he then read the following agenda item:

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Coastal Site Plan Review #271, Flood Damage Prevention Application #307, The Tokeneke Association, Inc., Cross Road Causeway, Pound Gut Seawall, Arrowhead Causeway.

Proposing to: a) repair an existing stone masonry and concrete causeway at Cross Road at its intersection with Scott Cove, which is adjacent to the properties shown on Assessors Map #65 Lot #8A (4 Cross Road), and on Assessor's Map #67 as Lot #87 (22 Searles Road) and Lot #88 (1 Coves End Road) in the R-1 Zone; b) repair an existing stone masonry seawall and causeway adjacent to Pound Gut, which is adjacent to the properties shown on Assessor's Map #67 as Lot #65 (2 Contentment Island Road), Lot #47 (31 Edgehill Drive), and Lot #85 (28 Searles Road) in the R-1 Zone; and c) repair an existing stone masonry and concrete causeway located at the junction of Arrowhead Way and Tokeneke Trail, which is adjacent to properties shown on Assessor's Map #69 as Lot #21 (36 Tokeneke Trail), Lot #41 (33 Tokeneke Trail), and Lot #20 (71 Arrowhead Way) in the R-1 Zone; and perform related site development activities within regulated areas. *PUBLIC HEARING TO BE OPENED AND IMMEDIATELY CONTINUED TO MAY 1, 2012.*

Chairman Conze opened the Public Hearing and immediately continued it to May 1, 2012. Chairman Conze then read the following agenda item:

Business Site Plan #281/Special Permit, Town of Darien, 35 Leroy Avenue. Proposal to: construct alterations to the former Darien Library building at 35 Leroy Avenue; establish the Darien Board of Education as a new Principal Use Requiring a Special Permit; and to perform related site development activities. The subject property is located on the west side of Leroy Avenue, approximately 350 feet north of its intersection with Boston Post Road, and is shown on Assessor's Map #39 as Lot #30, in the DB-1 and R-1/3 Zones.

Rusty Malik, Project Architect, explained that the project is to reuse the former library site at 35 Leroy Avenue so that it will become the administrative offices of the Darien Board of Education. They have conducted and submitted a Traffic and Parking Study. Part of the plans creates necessary improvements to the site that include emergency pedestrian egress from the building to the property to the north and revisions to the handicapped parking spaces and to the access into the building. They also plan to improve the lighting so that full cut-off fixtures will be included to minimize the amount of light spillage toward neighboring properties. They are adding low lighting bollards along the walkways for the safety of pedestrians. The main entrance doorway and walkways would be modified and the doorway/walkway on the southwesterly entrance would become handicapped accessible.

Mr. Malik explained that old underground oil tanks will be removed. Natural gas service in the street will be connected to the building. They will be replacing old mechanical equipment on the roof with new equipment, and adding some further equipment on the roof. This equipment will generally be lower than the existing equipment and will be screened from view.

Mr. Malik explained that one of the features of the site is that there are now some pumps that are able to lift trapped storm water from a low area on the site and pump it to an area where it now can be discharged and flow away from the site in to the lower Stony Brook drainage system. These pumps will be maintained. In fact, an emergency generator will be installed to assure that the pumps will be able to work even when the power to the site is cut off. The emergency generator will be located in the basement of the building and will serve the needs of the entire building. Mr. Malik also said that some asbestos within the building needs to be remediated.

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Norm Guimond, Chairman of the Building Committee, said that per the Assistant Fire Marshal, the emergency generator must be a different fuel source from the regular power source. This is why they will be using a diesel powered emergency generator even though they will have natural gas available to the building to be used for heating purposes.

In response to questions, it was indicated that storm drainage from the existing building and parking lot will not be changed. It currently goes into catch basins in the parking lot and then flows to the wetlands to the south and west. The applicant does not propose any modifications of the storm drainage system. Mrs. Cameron said that she is concerned about storm water quality and said that during the renovation of the site and reuse of the building, the Town should make improvements with respect to the storm drainage system. Mr. Hutchison suggested that some form of pre-treatment of the storm water would be appropriate before it is discharged into or toward the wetlands. He said that the existing drainage system should be brought up to current standards. Mr. Spain asked staff if the Commission usually requires storm water management of the site to be upgraded if the site itself is not being changed much. Mr. Ginsberg indicated that the Commission has not asked for storm water detention, unless the site was being entirely redeveloped, such as the Whole Foods site. With respect to upgrading for water quality however, it would not be the first time that water quality issues are addressed as part of a reuse of an existing site.

In response to questions, Mr. Malik said that they are proposing to go out to bid in May and start construction during the summer months. Mr. Conze suggested that the Commission continue the Public Hearing regarding this matter so that the storm water drainage could be addressed with respect to water quality, and a drainage maintenance plan can be developed to make sure that the drainage system is properly maintained. Mr. Conze also noted that it is important to document what the existing drainage system is, how it works, and what improvements could be made, as well as how the drainage system can be maintained. Mr. Spain said that it is appropriate to look into reasonable means to deal with the existing drainage situation.

Mr. Voigt questioned the emergency egress from the north side of the building. Mr. Malik said that an e-mail has been received from the Red Cross to allow pedestrian emergency egress through the Red Cross property. Mr. Voigt suggested that they may need to get some kind of formal right of egress.

Commission members reviewed the floor plans regarding this Special Permit request, and noted that more detail needs to be provided regarding the room sizes and the uses of those areas and spaces. Mr. Malik said that uses within the building will be shifted around from time to time, and therefore it is difficult to specify exactly what the use will be. He said that the room usage will depend on the needs of the Board of Education. Commission members noted that some spaces within the building are not yet designated for use and any additional uses of the building and facility will require prior submission to and review and action by the Commission.

With respect to the sightlines from the driveway along Leroy Avenue, Mr. Malik said that sightline from the existing driveway looking north will be slightly improved by the minor regrading near the northeast corner of the property. He also noted that the traffic report indicates that the sightlines do comply with the requirements for a roadway with a posted speed limit of 25 miles per hour. He said that the parking needs assessment discussed within the traffic report were based on the office use

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during the day time and having some public meetings and public uses of the facilities during the evenings. He added that there is an informal agreement with the owner of the large commercial lot located across the street (adjacent to the Darien Sport Shop) for overflow parking during the evening hours when most of the retail businesses are not open. In response to questions, Mr. Ginsberg noted that some of the maintenance type activities at the current Board of Education offices at 2 Renshaw Road will be moved the Darien Public Works garage, rather than being relocated to the 35 Leroy Avenue property. Mr. Hutchison said that the traffic study seems to be well done, and that the proposed day-time intensity of the Board of Education use will be substantially less than the intensity of the use created by the old library at this site.

Mr. Spain mentioned that the snow storage area needs to be investigated to make sure that all of the on-site parking spaces will be available after every snow event.

Chairman Conze asked if there are any public comments regarding the application. Graham Powell of 71 Hale Lane said that even though the Darien Library is no longer using the site, there are currently about 20 vehicles that are parked on the property from time to time. He said that the traffic report cites two fatal accidents in this area but he does not know the details of those accidents. He said that this raises the issue of the adequacy of the sightlines. He said that the Traffic Commission has commented that new signage is needed to avoid the blockage of the Hale Lane driveway as it exits on to Leroy Avenue. He said that the signage should be provided as part of the reuse of the property at 35 Leroy Avenue. He noted that the eventual use of the lower level of the building is not specified in the submitted materials. He said that at some point that area might be rented out or used for a much more parking intensive use.

Commission members noted that the applicant still needs to provide responses to the issues that were raised at the Public Hearing. The Public Hearing regarding this matter will be continued at 8:00 P.M. on Tuesday, April 24, 2012.

At about 9:00 p.m., Chairman Conze read the following agenda item:

Coastal Site Plan Review #224-A, Flood Damage Prevention Application #247-A, Lewis Nash Family, Inc., c/o James & Marion Friend, 1 Nash Island. Proposing to replace/reconstruct a gazebo in the same position and configuration as the original gazebo recently destroyed by a hurricane, and to perform related site development activities within regulated areas. The subject property is located on the north side of Nash Island approximately 1,000 feet southeast of its intersection with Nearwater Lane, and is shown on Assessor's Map #55 as Lot #124, and is in the R-1 Zone.

Jeff McDougal of William W. Seymour & Associates Land Surveyors explained that the gazebo structure was washed away in the Hurricane/Tropical Storm that occurred in 2011. They have obtained a variance from the Zoning Board of Appeals to reconstruct the gazebo and they have submitted information to the Connecticut Department of Energy and Environmental Protection (DEEP) requesting a determination whether the State will require a permit or not. He said the plan is to simply replace the structure at the same size and same location as it had been for many years. It is believed that the old gazebo had been originally built in the 1800s.

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Mr. Ginsberg reviewed the letter from the South Western Regional Planning Agency (SWRPA) indicating that they had no issue regarding the proposed activity. He also reviewed emails from the Connecticut Department of Energy and Environmental Protection indicating that they will need to make a final determination regarding the State permit issue and that they are satisfied with the Planning & Zoning Commission closing the Public Hearing at the local level. They indicated that if any work is within their jurisdiction, that a formal permit from the Connecticut Department of Energy and Environmental Protection will be needed. Mr. Ginsberg said that this is simply to replace the gazebo type structure and it will not have any adverse flood impacts and it will not have any coastal impacts.

There were no comments from the public regarding the pending application. The following motion was made: That the Planning & Zoning Commission close the Public Hearing regarding the application. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

At about 9:06 P.M., Chairman Conze called the General Meeting to order and read the following agenda item:

GENERAL MEETING

Amendment of Business Site Plan #275-A/Special Permit, Phil's Grill, 340 Heights Road.

Request to increase size of recently-approved restaurant/bar addition by 230+/- square feet.

Phil Santomassi explained that they are proposing to enclose a covered portion of the walkway along the north side of the existing restaurant. That will create an additional 240 square feet of interior space. They will rearrange the seating area and slightly increase the amount of interior seats. Mr. Santomassi said that this covered area is currently a walkway that connects the parking area to the retail stores. There was some discussion regarding the emergency egress door from the bar to this covered walk way. Mr. Santomassi also said that in addition to six more inside seats, they will be adding eight more outside seats against the glass windows on the south side of the building. This area is currently under the eave or overhang of the building. Proposed total seating: inside dining area - 54; bar area – 8 at bar and 12 additional at tables; outside dining – 32 in original patio and 8 new seats under the overhang. Mr. Ginsberg said that the plans have been reviewed by the offices of the Fire Marshal and the Health Department. Both of those departments were okay with the proposed modifications.

Chairman Conze asked if there were any comments from the public regarding this matter. There were none. The following motion was made: That the Planning & Zoning Commission hereby modifies the Special Permit and Site Plan approval for Phil's Grill to create the expanded interior floor space , modify the interior layout, increase the number of interior seats and add eight exterior seats in accordance with the plans submitted to and reviewed by the Commission. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

Chairman Conze then read the following agenda item:

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Amendment of Special Permit Application #269, Graham & Jennifer Foster, 36 Crooked Mile Road.

Request to increase size of previously approved sport court from 60' x 35' to a maximum of 60' x 40'.

Graham Foster explained that he wishes to modify the Special Permit that had been granted by the Planning & Zoning Commission to slightly increase the size of the special play area to accommodate roller hockey for his children. He said the width of this play space changes from 35 feet to 40 feet. The overall length of the play area stays the same (at 60 feet). He said that the existing spruce and pine trees in the area will remain and that the site modifications due to the expanded size of the play area will be very minor.

The Commission members briefly discussed the matter and the following motion was made: That the Planning & Zoning Commission approve the requested modification regarding the expansion of the play area allowed by the Special Permit. The width of the play area is to increase from 35 feet to become 40 feet. The motion was made by Mrs. Cameron, seconded by Mr. Cunningham and unanimously approved.

Chairman Conze read the following agenda item:

Discussion, deliberation and possible decisions on the following:

Land Filling & Regrading Application #267, Scott Leahy, 117 Leeuwarden Road. Proposing to fill, regrade, and construct associated retaining walls along the sides and rear of the property, and perform related site development activities. *DECISION DEADLINE: 5/17/2012.*

The Commission reviewed the draft resolution that would approve the proposed filling and regrading subject to conditions and stipulations. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project. The motion was made by Mr. Spain and seconded by Mr. Hutchison. Those voting in favor of the motion were Mr. Spain, Mr. Hutchison, Mr. Conze and Mr. Cunningham. Mrs. Cameron and Mr. Voigt abstained from voting. The motion was passed by a vote of 4-0-2. The adopted resolution is:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
March 27, 2012**

Application Numbers: Land Filling & Regrading Application #267

Addresses of Subject Property: 117 Leeuwarden Road
Assessor's Map #29 Lot #122

Name and Address of
Property Owner: Scott Leahy
117 Leeuwarden Road
Darien, CT 06820

Name and Address of Applicant
Applicant's Representative: Doug St. John
Swimm Pools, Inc.

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512 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Proposing to fill, regrade, and construct associated retaining walls along the sides and rear of the property, and perform related site development activities.

Property Location: The subject property is located on the west side of Leeuwarden Road, approximately 800 feet south of its intersection with Old Oak Road.

Zones: R-1/2

Date of Public Hearing: January 10, 2012 continued to February 7, 2012 and February 28, 2012 and March 13, 2012

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: December 30, 2011 and January 6, 2012 Newspaper: Darien News

Date of Action: March 27, 2012 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
April 6, 2012

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application is to fill, regrade, and construct associated retaining walls along the sides and rear of the property, and perform related site development activities.
2. At the public hearing on this matter, concern was raised both by the Commission and one of the neighbors regarding the proposed drainage. It was noted by Mr. Forlivia, an adjoining property owner that his Hoyt Street properties are at a much lower elevation than the subject property,

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and water from the 117 Leeuwarden back yard flows westward towards Mr. Forlivia's properties.

3. Project Engineer Greg Pidluski said that enough drainage facilities have been incorporated into the revised plans and drawings to handle the increase in storm water run-off and also to accept the drawdown of water at the end of the pool season and before the pool is winterized. The design takes the run-off from the leaders from the back of house and puts it into a series of cultec units that will allow water to absorb into the ground.
4. During the public hearing process, revised drainage plans were received. These revised plans show that the filling and regrading on the west side of the house will preserve the existing stone wall that is near the westerly property boundary. In the southwest corner, the plans were revised to add a two-foot wide, two-foot deep stone trench near the top of the existing stone wall so that storm water flowing from the swimming pool area will dissipate and spread within that trench and then will proceed in a sheet flow manner in a westerly direction toward the neighboring property. The stone wall in the northwest portion of the property will be preserved and a new retaining wall will be constructed to hold the proposed fill. A four-inch diameter perforated spreader pipe will be installed so that water in that area will also be discharged as a sheet flow rather than a concentrated manner. The revised plans also reflect plantings to minimize the visual impact of the proposed retaining walls.
5. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
6. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Sections 850 and 1000.
7. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #267 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading and associated work shall be in accordance with the plans submitted to the Commission entitled:
 - Overall Wall Grading Plan, Scott Leahy Residence, 117 Leeuwarden Road, by Atlantic Consulting & Engineering, last revised 2/10/12, Sheet Number S-1.
 - Details, Scott Leahy Residence, 117 Leeuwarden Road, by Atlantic Consulting & Engineering, last revised 2/10/12, Sheet Number S-2.

The proposed plantings to minimize the visual impacts of the proposed retaining walls are an integral part of this approval. This includes evergreen plantings to screen the rear wall and the side wall, as well as Bar Harbor Juniper Evergreen groundcover to cover the top of the rear wall and cascade over the top of the wall.

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- B. During the project, the applicant shall utilize sediment and erosion controls shown on the plans and any additional anti-tracking pads, temporary sediment basins, and/or other sediment and erosion control measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. Due to the scope of the proposed work, the provision of a Performance Bond is hereby waived.
- D. By May 27, 2012 (within the next 60 days) AND prior to the issuance of a Zoning and Building Permit for any new structure on the site, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 117 Leeuwarden Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading work.
- E. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the use of the pool or the request for the Certificate of Completion for the new pool, the applicant shall submit verification from the project engineer that all aspects of the site regrading and storm drainage system installation have been completed in compliance with the approved plans.
- F. The property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies) or the adjacent streets. If such problems (including, but not limited to, concentrated flow as opposed to sheet flow of runoff) do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- H. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- I. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one

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(1) year of this action (March 27, 2013). This may be extended as per Sections 858 and 1009.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall also be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Chairman Conze read the following agenda item:

Amendment of Business Site Plan #136-B/Special Permit, Dan Dolcetti, 2 Squab Lane, CBD Zone. Proposal to establish a law office on the 1st and 2nd floor of the existing 2 Squab Lane building. The establishment of a 1st floor professional office requires a Special Permit under Section 654d of the Darien Zoning Regulations. *DECISION DEADLINE: 5/17/2012.*

Commission members reviewed the draft resolution to approve the temporary use of the first floor as office space. They said that the resolution should include a provision that this will be on a month to month lease so that the office use will not interfere with or delay the demolition of the building and redevelopment of the property in accordance with the previously approved project. All members agreed to modify the resolution accordingly. The following motion was made: That the Planning & Zoning Commission adopt the following revised resolution to approve the Special Permit for the temporary office use on the first floor in accordance with the following resolution. The motion was made by Mrs. Cameron and seconded by Mr. Cunningham. Those voting in favor of the motion were Mr. Conze, Mr. Spain, Mr. Cunningham and Mrs. Cameron. Mr. Voigt and Mr. Hutchison abstained from voting. The motion was passed by a vote of 4-0-2. The adopted resolution is:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
March 27, 2012**

Application Number: Amendment of Business Site Plan #136-B/Special Permit

Street Address: 2 Squab Lane
Assessor's Map #73 Lot #34

Name and Address of Applicant & Property Owners: Dan Dolcetti
55 Norton Avenue
Darien, CT 06820

Activity Being Applied For: Proposal to establish a law office on the 1st and 2nd floor of the existing 2 Squab Lane building. The establishment of a 1st floor professional office requires a Special Permit under Section 654d of the Darien Zoning Regulations.

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Property Location: The subject property is located on the northeast corner formed by the intersection of Grove Street and Day Street, and is shown on Assessor's Map #73 as Lot #34, in the CBD Zone.

Zone: CBD

Date of Public Hearing: February 28, 2012 continued to March 13, 2012

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: February 17 & 24, 2012

Newspaper: Darien News

Date of Action: March 27, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: April 6, 2012

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650, 900, 1000, and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicant proposes to establish a law office on the 1st and 2nd floor of the existing 2 Squab Lane building. The establishment of a 1st floor professional office requires a Special Permit under Section 654d of the Darien Zoning Regulations. The subject property is served by public water and sewer.
2. In a January 30, 2012 e-mail, property owner Dan Dolcetti noted that the one-person law office will be leasing a 130 square foot (sf) office on the second floor. On the first floor, he will be leasing a 189 sf area for reception; a 156 sf conference room; a 99 sf library; and a 144 sf kitchen and bathroom. No new construction is needed for this tenant fit-out.
3. Section 654 of the Darien Zoning Regulations reads as follows:
654. Principal Uses Requiring Special Permits

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The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000:

- a. Protected Town Landmarks.*
 - b. Restaurants.*
 - c. The sale of prepared food such as candy or ice cream for consumption on or off the premises.*
 - d. Financial Service and/or business and professional offices on the first floor, provided that the Commission makes a finding that the retail/commercial sales and service use (other than Financial Service uses) of such space is impractical, undesirable, and/or inconsistent with the standards under Subsection 1005h.*
 - e. Clubs and lodges.*
4. At the public hearing, property owner Dan Dolcetti explained that the existing building at 2 Squab Lane is part of a re-development project that is not yet complete. The existing building will be removed as soon as a long term tenant for the proposed building is committed. He said that retail operations are not practical at that location due to the imminent demolition and removal of the structure. The proposed office tenant is a small one person law office and has agreed to take the first floor space on a month-to-month basis. When the existing building is slated for demolition, the proposed office tenant will vacate the space and allow the demolition to proceed. Mr. Dolcetti noted that the building is isolated from other retail uses and will be demolished in the foreseeable future.
 5. The Architectural Review Board (ARB) will review any request for signage for this proposed one-person law office.
 6. The proposed first floor office use is a Special Permit use, and therefore requires action under Section 1000 of the Darien Zoning Regulations.
 7. The Commission hereby finds that the retail/commercial sales and service use (other than Financial Service uses) of such space is impractical, undesirable, and/or inconsistent with the standards under Subsection 1005h. The Commission notes that this building is off of Boston Post Road, and has been approved for re-development.
 8. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
 9. The location and nature of the proposed use is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
 10. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

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11. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
12. The elements of the Site Plan, submitted as part of the application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Amendment of Business Site Plan #136-B/Special Permit is hereby granted subject to the foregoing and following conditions, modifications and understandings:

- A. The Commission hereby approves a Special Permit use for the first floor of the building to be used as the support space for the one person law office use on the second floor. This use is as specifically described in the January 30, 2012 letter and January 30, 2012 e-mail from subject property owner Dan Dolcetti and the testimony received at the public hearing. It is understood that the office use is **temporary**, and that the lease is month-to-month, and will last only until the existing building is removed as part of the redevelopment of the site.
- B. No outdoor storage, trash dumpsters, fuel tanks, or display has been requested, and none is hereby granted. There shall be no transformers, outdoor dumpsters or garbage cans, or HVAC units on the ground.
- C. Because of the nature of the existing and proposed site conditions of this previously developed property, the Commission hereby waives the requirement for a loading zone as authorized by Section 909 of the Darien Zoning Regulations.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- F. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (March 27, 2013). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within sixty days of this approval AND prior to the establishment of the first floor law office, or this permit shall become null and void.

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Discussion and Deliberation only on any public hearings closed on March 27, 2012.

Mr. Conze noted that the only public hearing closed was the Nash Island gazebo. He instructed Mr. Ginsberg to draft a resolution regarding that application for consideration at an upcoming meeting.

Approval of Minutes

March 13, 2012 Public Hearing/General Meeting

The following motion was made: To adopt the minutes of March 13, 2012 as submitted. The motion was made by Mrs. Cameron and seconded by Mr. Spain. All voted in favor except Mr. Voigt who abstained because he had not attended the meeting.

March 20, 2012 Executive Session

The following motion was made: That the Planning & Zoning Commission adopt the minutes as presented. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

There being no further business, the meeting was adjourned at 9:25 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director